

(iii) *Discretionary determination.* The director has the discretion, but is not required, to make an expedited determination concerning release in cases where the taxpayer does not submit, within the time frame specified in paragraph (c)(2) of this section, the information required in paragraph (c)(1) of this section and include with the information an explanation of why the property levied upon qualifies for an expedited determination of whether a condition requiring release of the levy exists.

(2) *Essential business property defined.* For purposes of this section, *essential business property* means tangible personal property used in carrying on the trade or business of the taxpayer which when levied upon prevents the taxpayer from continuing to carry on the trade or business.

(3) *Seizure of perishable goods.* The provisions of this paragraph do not apply in the case of a seizure of perishable goods. Those seizures are governed by the provisions of section 6336 and § 301.6336-1.

(e) *Effect of a release of levy.* If property has not yet been surrendered to the director in response to a levy, a release of the levy under section 6343(a) will relieve the possessor of any obligation to surrender the property. Otherwise, a release of a levy under section 6343(a) will cause the property to be returned to the custody of the person or persons legally entitled thereto. The release of a levy on any property under this section does not prevent any subsequent levy on the property. Section 301.6343-2, dealing with return of wrongfully levied upon property, is subject to section 6402 which prohibits the Internal Revenue Service from refunding a payment of money that has been deposited in the Treasury and credited to the taxpayer's liability unless there is an overpayment.

(f) *Effective date.* This section is effective as of December 30, 1994.

[T.D. 8587, 59 FR 35, Jan. 3, 1995]

§ 301.6343-2 Return of wrongfully levied upon property.

(a) *Return of property—(1) General rule.* If the district director, service center director, or compliance center director (the *director*) determines that

property has been wrongfully levied upon, the director may return—

- (i) The specific property levied upon;
- (ii) An amount of money equal to the amount of money levied upon; or
- (iii) An amount of money equal to the amount of money received by the United States from a sale of the property.

(2) *Time of return.* If the United States is in possession of specific property, the property may be returned at any time. An amount equal to the amount of money levied upon or received from a sale of the property may be returned at any time before the expiration of 9 months from the date of the levy. When a request described in paragraph (b) of this section is filed for the return of property before the expiration of 9 months from the date of levy, an amount of money may be returned after a reasonable period of time subsequent to the expiration of the 9-month period if necessary for the investigation and processing of such request.

(3) *Specific property.* In general the specific property levied upon will be returned whenever possible. For this purpose, money that is specifically identifiable, as in the case of a coin collection which may be worth substantially more than its face value, is treated as specific property.

(4) *Purchase by United States.* For purposes of paragraph (a)(1)(iii) of this section, if property is declared purchased by the United States at a sale pursuant to section 6335(e), the United States is treated as having received an amount of money equal to the minimum price determined by the director before the sale or, if larger, the amount received by the United States from the resale of the property.

(b) *Request for return of property.* A written request for the return of property wrongfully levied upon must be addressed to the district director (marked for the attention of the Chief, Special Procedures Staff) for the Internal Revenue district in which the levy was made. The written request must contain the following information—

- (1) The name and address of the person submitting the request;
- (2) A detailed description of the property levied upon;

(3) A description of the claimant's basis for claiming an interest in the property levied upon; and

(4) The name and address of the taxpayer, the originating Internal Revenue district, and the date of the levy as shown on the notice of levy form, or levy form, or, in lieu thereof, a statement of the reasons why such information cannot be furnished.

(c) *Inadequate request.* A request for the return of property wrongfully levied upon will not be considered adequate unless it is a written request containing the information required by paragraph (b) of this section. However, unless a notification is mailed by the director to the claimant within 30 days of receipt of the request to inform the claimant of the inadequacies, any written request will be considered adequate. If the director timely notifies the claimant of the inadequacies of his request, the claimant has 30 days from the receipt of the notification of inadequacy to supply in writing any omitted information. Where the omitted information is so supplied within the 30-day period, the request will be considered to be adequate from the time the original request was made for purposes of determining the applicable period of limitation upon suit under section 6532(c).

(d) *Payment of interest.* Interest is paid at the overpayment rate established under section 6621—

(1) In the case of money returned under paragraph (a)(1)(ii) of this section, from the date the director received the money to a date (to be determined by the director) preceding the date of return by not more than 30 days; or

(2) In the case of money returned under paragraph (a)(1)(iii) of this section, from the date of the sale of the property to a date (to be determined by the director) preceding the date of return by not more than 30 days.

(e) *Effective date.* This section is effective as of December 30, 1994.

[T.D. 8587, 59 FR 37, Jan. 3, 1995]

§ 301.6361-1 Collection and administration of qualified taxes.

(a) *In general.* In the case of any State which has in effect a State agreement (as defined in paragraph (a) of

§ 301.6361-4), the Commissioner of Internal Revenue shall collect and administer each qualified tax (as defined in paragraph (b) of § 301.6361-4) of such State. No fee or other charge shall be imposed upon any State for the collection or administration of any qualified tax of such State or any other State. In any such case of collection and administration of qualified taxes, the provisions of subtitle F (relating to procedure and administration), subtitle G (relating to the Joint Committee on Taxation), and chapter 24 (relating to the collection of income tax at source on wages), and the provisions of regulations thereunder, insofar as such provisions relate to the collection and administration of the taxes imposed on the income of individuals by chapter 1 (and the civil and criminal sanctions provided by subtitle F, or by title 18 of the United States Code (relating to crimes and criminal procedure), with respect to such collection and administration) shall apply to the collection and administration of qualified taxes as if such taxes were imposed by chapter 1, except to the extent that the application of such provisions (and sanctions) are modified by regulations issued under subchapter E (as defined in paragraph (d) of § 301.6361-4). Any extension of time which is granted for the making of a payment, or for the filing of any return, which relates to any Federal tax imposed by subtitle A (or by subtitle C with respect to filing a return) shall constitute automatically an extension of the same amount of time for the making of the corresponding payment or for the filing of the corresponding return relating to any qualified tax.

(b) *Returns of qualified taxes.* Every individual, estate, or trust which has liability for one or more qualified taxes for a taxable year—

(1) Shall file a Federal income tax return at the time prescribed pursuant to section 6072(a) (whether or not such return is required by section 6012), and shall file therewith on the prescribed form a return under penalties of perjury for each tax which is—

(i) A qualified resident tax imposed by a State of which the taxpayer was a resident, as defined in § 301.6362-6, for any part of the taxable year;